

James L. Schutza
7920 Beltline Road, Suite 650
Dallas, TX 75254
(972) 774-9400
(972) 231-3983 facsimile

POLK, PROBER & RAPHAEL, A LAW CORPORATION
Attorneys for Movant
P.O. Box 4365
Woodland Hills, California 91365-4365
(818) 227-0100
Attorneys for Movant

IN THE UNITED STATES BANKRUPTCY COURT
 FOR THE NORTHERN DISTRICT OF TEXAS
 WICHITA FALLS DIVISION

In re)	Bk. No. 09-70347-hdh13
)	
JOHN KYLE LANDRUM dba)	
LANDRUM AUTO SALES)	Chapter 13
)	
Debtor.)	OBJECTIONS TO PROPOSED
)	CHAPTER 13 PLAN
)	AND CONFIRMATION THEREOF
)	

First American Bank Texas, SSB, secured creditor in the above-entitled Bankruptcy proceeding, its assignees and/or successors in interest, holds the first lien on the subject property generally described as **Route 2, Box 5D, State Highway #148, Henrietta, Texas, 76365**, and hereby submits the following objections to the confirmation of that certain Chapter 13 Plan (the "Plan") proposed by Debtor:

LACK OF ADEQUATE FUNDING

The Plan is not adequately funded. 11 U.S.C. §1325(a)(5)(B)(ii) requires full payment of the allowed claim of this objecting Secured Creditor. The Proof of Claim filed by this creditor establishes total pre-petition arrearages in the amount of \$979.30, an amount not

provided for at all in the plan. Thus, the Plan does not provide adequate protection of this creditor's interests as required by 11 U.S.C. §361, and does not meet the "feasibility" requirement of 11 U.S.C. §1325(a)(6).

FAILURE OF PLAN TO PROVIDE FOR THE MAINTENANCE OF POST-PETITION
PAYMENTS

The Debtor's proposed Chapter 13 Plan fails to require the maintenance of the ongoing post-petition monthly payments as required by 11 U.S.C. § 1322(b)(5).

DEBTOR FAILS TO PROVIDE FOR SECURED CREDITOR

Debtor has failed to include this Secured Creditor or the subject property in his Chapter 13 Plan or Schedule A and D in any way whatsoever.

CONCLUSION

Any Chapter 13 Plan proposed by Debtor must provide for and eliminate the objections specified above in order to be feasible and to provide adequate protection to this objecting secured creditor. It is respectfully requested that confirmation of the Chapter 13 Plan as proposed by Debtor, be denied.

WHEREFORE, secured creditor prays as follows:

- (1) That confirmation of the proposed Chapter 13 Plan be denied.
- (2) For attorneys' fees and costs incurred herein.
- (3) For dismissal of the Chapter 13 proceeding.
- (4) For such other relief as this Court deems proper.

Dated:8/28/09

Respectfully submitted,

/s/ James L. Schutza
JAMES L. SCHUTZA
7920 Beltline Road, Suite #650
Dallas, TX 75254
(972) 774-9400
(972) 231-3983 facsimile

Prober & Raphael, A Law Corporation
Attorneys for Secured Creditor
20750 Ventura Boulevard, Suite 100
Woodland Hills, California 91364
(818) 227-0100
C.094-5462

SPECIAL NOTICE

THE FOLLOWING NOTICE IS GIVEN TO YOU IN THE EVENT THAT THE FEDERAL FAIR DEBT COLLECTIONS ACT APPLIES TO THIS COMMUNICATION.

The following statement provides you with notice of certain rights, which you may have by law. Nothing in this statement modifies or changes the hearing date or response time specified in the attached documents or your need to take legal action to protect your rights in this matter. No provision of the following statement modifies or removes your need to comply with local rules concerning the attached documents.

CONSUMER DISCLOSURE

This communication is made in an attempt to collect on a debt or judgment and any information obtained will be used for that purpose. Please be advised that if you notify First American Bank Texas, SSB's attorneys in writing within 30 days that all or a part of your obligation or judgment to First American Bank Texas, SSB is disputed, then First American Bank Texas, SSB's attorneys will mail to you a written verification of the obligations or judgment and the amounts owed to First American Bank Texas, SSB. In addition and upon your written request within 30 days, you will be provided with the name and address of the original creditor, if different from the current creditor.

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing instrument has been furnished by the Court's CM/ECF system or U.S. MAIL on the same date that this instrument is filed with the Court to:

John Kyle Landrum
P.O. Box 237
Byers, TX 76357
Debtor

Monte Jay White
Monte J. White & Associates
1106 Brook Avenue
Hamilton Place
Wichita Falls, TX 76301
Attorney for Debtor

Walter Ross O'Cheskey
6308 Iola Avenue
Lubbock, TX 79424
Chapter 13 Trustee

Other parties on electronic service list

/s/ James L. Schutza